

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

WALTER JONES,)
vs. Plaintiff,)
vs.)
TWIN EXPRESS, INC. and JAMES MERRILL)
Defendants.)
No. 09 - 5542
Magistrate Judge Nolan

MOTION FOR ENTRY OF A DISMISSAL ORDER

NOW COME Defendants, TWIN EXPRESS, INC. and JAMES MERRILL, by and through their attorneys, CHILTON YAMBERT & PORTER LLP, and as their Motion for the Entry of a Dismissal Order, state as follows:

1. This matter arises out of a motor vehicle accident on December 23, 2008. As a result the Plaintiff, WALTER JONES, has claimed certain injuries and damages. The matter has been settled between the parties. Since all matters in controversy have been compromised and settled, these Defendants request the entry of Order dismissing this action with prejudice, including the pending petition to intervene.

2. Any requirement for a Medicare/Medicaid set-aside has been considered by the parties and it is agreed that no such set-aside is to be considered. Plaintiff, Walter Jones, has not and is not making any claim for Medicare/Medicaid benefits. His date of birth is 8/20/62 making him only 49, and, therefore, not Medicare/Medicaid eligible. Mr. Jones has been working for the last 2 years.

3. Pursuant to the settlement release, Walter Jones represents that he does not reasonably anticipate nor does he intend to become a Medicare/Medicaid beneficiary within 30

months of the date of the execution of this agreement for services rendered as a result of injuries allegedly sustained in the above referenced accident. Therefore, Walter Jones represents that he asserts that he does not reasonably anticipate that the Centers for Medicare and Medicaid services nor the Illinois Department of Healthcare and Family Services will pay any such future medical expenses on his behalf in connection with the injuries he has claimed in this lawsuit.

4. Accordingly, it should be ordered that Medicare/Medicaid set-aside has been considered and is not warranted.

5. Further, the Defendants request that this court retain jurisdiction over the matter to enforce the terms of the settlement and that no costs be assessed to any party.

WHEREFORE, Defendants, TWIN EXPRESS, INC. and JAMES MERRILL pray this Court enter its Order dismissing this matter with prejudice and that a Medicare/Medicaid set-aside has been considered and is not warranted, and for any other relief deemed just and proper.

Respectfully Submitted,

CHILTON YAMBERT & PORTER, LLP

s/Jason Hitchings

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CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on the 21st day of December, 2011, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Defendants, TWIN EXPRESS, INC. and JAMES MERRILL's Motion for Entry of Dismissal Order, via the Court's electronic filing system which will send notice to all parties.

By: s/ Jason M. Hitchings

Jason M. Hitchings
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